



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy and Discount, L.L.C.

Respondent Name

American Home Assurance Company

MFDR Tracking Number

M4-17-3142-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

June 23, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "On 8/17/16 and 8/22/16 Gallagher Bassett ... reviewed the services rendered on 7/8/16 and issued a partial payment of \$58.93. Two of the ingredients were denied for no precertification. These ingredients did not require authorization. The rest of the ingredients were never addressed and the bill has not been paid."

Amount in Dispute: \$13,334.85

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Submitted documentation does not include a position statement from the respondent.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 2, 2016	Pharmacy Services - Compounds	\$13,334.85	\$13,334.85

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §102.4 sets out the procedures for communications that do not include the division.
3. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
4. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
5. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
6. 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.

7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
For ingredients Sanare Gel Base and Propylene Glycol:
 - 197 – Precertification/authorization/notification absentNo explanation of benefits was found for ingredients Gabapentin and Fluticasone Propionate.

Issues

1. Did American Home Assurance Company respond to the medical fee dispute?
2. Did American Home Assurance Company take final action to pay, reduce, or deny the disputed services not later than the 45th day after receiving the medical bill?
3. Is American Home Assurance Company's reason for denial of payment supported?
4. Is Sentrix Pharmacy and Discount (Sentrix) entitled to reimbursement for the compound in question?

Findings

1. The Austin carrier representative for American Home Assurance Company is Flahive, Ogden & Latson. Flahive, Ogden & Latson acknowledged receipt of the copy of this medical fee dispute on July 3, 2017. 28 Texas Administrative Code §133.307 states, in relevant part:
 - (d) Responses. Responses to a request for MFDR shall be legible and submitted to the division and to the requestor in the form and manner prescribed by the division.
 - (1) Timeliness. The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile **within 14 calendar days after the date the respondent received the copy of the requestor's dispute** [emphasis added]. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

Review of the documentation finds that no response has been received on behalf of American Home Assurance Company from Flahive, Ogden & Latson to date. The division concludes that American Home Assurance Company failed to respond within the timeframe required by §133.307(d)(1). For that reason the division will base its decision on the information available.

2. Sentrix is seeking reimbursement of \$11,262.83 for Gabapentin and Fluticasone Propionate, ingredients in a compound dispensed on August 2, 2016. Sentrix argued in its position statement that these ingredients "were never addressed and the bill has not been paid." Submitted documentation finds no explanations of benefits were submitted by either party for the ingredients in question.

According to Texas Labor Code Sec. 408.027(b), American Home Assurance Company was required to pay, reduce, or deny the submitted pharmaceutical bill not later than the 45th day after it was received from Sentrix. Corresponding 28 Texas Administrative Code §133.240(a) also required American Home Assurance Company to take **final action** on the bill for the ingredients in question by issuing an explanation of benefits not later than the statutorily-required 45th day. 28 Texas Administrative Code §133.2(6) defines final action as follows:

- (6) Final action on a medical bill—
 - (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
 - (B) denying a charge on the medical bill.

Sentrix submitted a copy of a USPS Tracking document indicating that the pharmaceutical bill for the services in dispute was printed on were submitted by certified mail on April 17, 2017 and received by the insurance carrier on April 24, 2017. 28 Texas Administrative Code §102.4(p) states:

For purposes of determining the date of receipt for non-commission written communications, unless the great weight of evidence indicates otherwise, the Commission shall deem the received date to be five days after the date mailed via United States Postal Service regular mail; or the date faxed or electronically transmitted.

American Home Assurance Company was, therefore, not relieved of its requirement to pay, reduce, or deny Gabapentin and Fluticasone Propionate not later than the 45th day after it received the pharmaceutical bill from Sentrix, in accordance with Texas Labor Code Sec. 408.027(b).

When the insurance carrier receives a medical bill, it is obligated to take the following actions pursuant to 28 Texas Administrative Code §133.240:

- (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill...
- (e) The insurance carrier **shall send the explanation of benefits** [emphasis added] in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:
 - (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

All workers' compensation insurance carriers are expected to fulfill their duty to take final action as required by the division's statutes and adopted administrative rules. The division finds that:

- no evidence was presented to the division to support that American Home Assurance Company took final action by paying, reducing, or denying Gabapentin and Fluticasone Propionate within 45 days; and
- no evidence was presented to the division to support that American Home Assurance Company presented **any** defenses to Sentrix for the ingredients in question on an explanation of benefits as required under 28 Texas Administrative Code §133.240 prior to the request for medical fee dispute resolution.

Absent any evidence that American Home Assurance Company raised any defenses for Gabapentin and Fluticasone Propionate that conform to the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division finds that these ingredients will be reviewed in accordance with applicable fee guidelines.

3. Sentrix is also seeking reimbursement of \$2,072.02 for Sanare Gel Base and Propylene Glycol, ingredients the compound in question for this dispute. American Home Assurance Company denied the ingredients in question with claim adjustment reason code 197 – "PRECERTIFICATION/AUTHORIZATION/NOTIFICATION ABSENT."

28 Texas Administrative Code §134.530(b)(2) states that preauthorization is **only** required for:

- drugs identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates;
- any compound that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates; and
- any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

The division finds that the ingredients in question do not include a drug identified with a status of "N" in the current edition of the ODG, *Appendix A*. American Home Assurance Company failed to articulate any arguments to support its denial for preauthorization. Therefore, the division concludes that Sanare Gel Base and Propylene Glycol did not require preauthorization and American Home Assurance Company's denial of payment for this reason is not supported. Therefore, these ingredients will be reviewed for reimbursement.

4. Sentrix is seeking reimbursement of \$0.00 for Naproxen and Methyl Salicylate, ingredients the compound in question for this dispute. Therefore, these ingredients will not be considered in this dispute. 28 Texas Administrative Code §134.503 applies to the compound ingredients in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
- (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2). Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Sanare Gel Base	00395701159 Generic	\$12.15	170.4 gm	\$2,587.95	\$2,069.34	\$2,069.34
Propylene Glycol	38779051001 Generic	\$0.19	12.0 ml	\$2.85	\$2.68	\$2.68
Gabapentin 15%	58597801407 Generic	\$62.84	36.0 gm	\$2,827.80	\$2,262.21	\$2,262.21
Fluticasone Propionate 1%	58597827604 Generic	\$3,750.00	2.4 gm	\$11,250.00	\$9,000.62	\$9,000.62
Compound Fee	NA	\$15.00	NA	\$15.00	\$0.00	\$0.00
					Total	\$13,334.85

The total reimbursement is therefore \$13,334.85. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$13,334.85.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$13,334.85, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

December 1, 2017
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.